

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**CIVIL NO. 1:06CV158**

<b>CINDY L. FRY,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>Vs.</b>	)	<b><u>ORDER OF DISMISSAL</u></b>
	)	
<b>MIKE JOHANNS, Secretary,</b>	)	
<b>United States Department of</b>	)	
<b>Agriculture,</b>	)	
	)	
<b>Defendant.</b>	)	
	)	

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**THIS MATTER** is before the Court on the Magistrate Judge's Memorandum and Recommendation, filed September 7, 2006. Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, United States Magistrate Judge Dennis L. Howell, was designated to consider pending motions in the captioned civil action and to submit to this Court recommendations for the disposition of these motions.

On September 7, 2006, the Magistrate Judge filed a Memorandum and Recommendation in this case containing proposed findings of fact and

conclusions of law in support of a recommendation regarding Defendant's motion to dismiss or, in the alternative, for summary judgment. The Plaintiff, who is proceeding *pro se*, and Defendant's counsel were advised that any objections to the Magistrate Judge's findings were to be filed in writing within 14 days of service of the Recommendation; the period within which to file objections expired on September 25, 2006. No written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed findings of fact are supported by the record and that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation that the Defendant's motion to dismiss be allowed.

**IT IS, THEREFORE, ORDERED** that the Defendant's motion to dismiss is **ALLOWED**, and this matter is hereby **DISMISSED WITH PREJUDICE** in its entirety.

Signed: October 2, 2006



Lacy H. Thornburg  
United States District Judge

